

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

RED BARN MOTORS, INC.,
DONALD B. RICHARDSON, AND
BARBARA A. RICHARDSON,

Plaintiffs,

v.

NEXTGEAR CAPITAL, INC.,
as successor-in-interest to
DEALER SERVICES CORPORATION,
and LOUISIANA'S FIRST CHOICE
AUTO AUCTION, L.L.C.,

Defendants.

CIVIL

ACTION NO. : 1:14-cv-01589-TWP-DKL

MOTION FOR LEAVE TO FILE VERIFIED AMENDED COMPLAINT

Now into Court, through undersigned counsel, comes Plaintiff, Red Barn Motors, Inc. ("Red Barn"), who respectfully requests leave of court to amend the *Complaint* of record in this action to add additional plaintiffs, defendants, and claims, as well as to change the caption in the case to remove the dismissed defendant, Louisiana's First Choice Auto Auction, L.L.C., as well as to add additional plaintiffs and defendants. The proposed *Verified Amended Complaint* is submitted herewith and labeled as Exhibit "A."

1.

Under Fed. R. Civ. P. Rule 15, a party may amend its pleading with the court's leave. Additionally, Fed. R. Civ. P. Rule 15 states "the court should freely give leave when justice so requires."

2.

Pursuant to S.D. Ind. L.R. 15-1, the substance of the entire original *Complaint* is reproduced in the *Verified Amended Complaint*; however, due to the nature of the claims, the new parties, and the new factual allegations incorporated, it is not possible to simply reproduce the original *Complaint* and add new paragraphs. This Court may, on its own motion or at the request of a party, suspend or modify any rule in a particular case in the interest of justice under S.D. Ind. L.R. 1-1(c). For the parties', as well as this Court's benefit, and in the interest of justice, Red Barn requests this Court suspend S.D. Ind. L.R. 15-1(c) and allow them to submit the *Verified Amended Complaint* in its current form.

3.

In the alternative and if this Court should deny their request for suspending S.D. Ind. L.R. 15-1, Red Barn seeks leave to provide the Court and Defendants with a blacklined copy of the *Verified Amended Complaint* showing all changes from the original *Complaint*.

4.

Red Barn requests the case caption be amended to properly reflect the current plaintiffs and defendants, to read as follows:

RED BARN MOTORS, INC., PLATINUM MOTORS, INC., MATTINGLY AUTO SALES, INC., CLASS ACTION, YOUNG EXECUTIVE MANAGEMENT & CONSULTING SERVICES, INC., Individually, and on behalf of other members of the general public similarly situated v. COX ENTERPRISES, INC., COX AUTOMOTIVE, INC., NEXTGEAR CAPITAL, INC., f/k/a Dealer Services Corporation, successor by merger with Manheim Automotive Financial Services, Inc., and JOHN WICK

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Wherefore, Red Barn requests this Court grant their *Motion for Leave to File Verified Amended Complaint* adding additional plaintiffs, defendants, and claims, as well as to amend the caption. Furthermore, they pray this Court suspends S.D. Ind. L.R. 1-1(c) and allows them to submit the *Verified Amended Complaint* in its current form.

Respectfully submitted,
CASSIE FELDER & ASSOCIATES, L.L.C.

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Inc., and Young Executive Management &
Consulting Services, Inc.*

CERTIFICATE OF SERVICE

I do hereby certify that I have on the 8th day of January, 2016, served a copy of the foregoing *Motion for Leave to File Verified Amended Complaint* on all counsel of record via electronic service by the court's CM/ECF system. Notice of this filing will be sent to all counsel of record by operation of the Court's electronic filing system.

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/s/ Joshua P. Melder
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